International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined fourth to ninth periodic reports of Saudi Arabia*

1. The Committee considered the combined fourth to ninth periodic reports of Saudi Arabia (CERD/C/SAU/4-9), submitted in one document, at its 2622nd and 2623rd meetings (see CERD/C/SR.2622 and 2623), held on 26 and 27 April 2018. At its 2636th meeting, held on 7 May 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined fourth to ninth periodic reports of the State party but regrets that the document was submitted with more than 10 years' delay. The Committee expresses its appreciation for the frank and constructive dialogue with the State party's large delegation. It wishes to thank the delegation for the information provided during the consideration of the report.

B. Positive aspects

3. The Committee welcomes the ratification by the State party of the following international human rights instruments:

(a) The Convention on the Rights of Persons with Disabilities, in 2008;

(b) The Optional Protocol to the Convention on the Rights of Persons with Disabilities, in 2008;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2010;

(d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2011.

4. The Committee welcomes the following legislative and policy measures taken by the State party:

(a) Establishment of the Human Rights Commission, through Cabinet Decision No. 207 of 12 September 2005;

(b) Establishment of a standing committee to combat trafficking in persons, through Cabinet Decision No. 244 of 13 July 2009;

(c) Prohibition of trafficking in persons, through the Anti-Trafficking in Persons Act, promulgated by Royal Decree No. M/40 of 14 July 2009;

* Adopted by the Committee at its ninety-fifth session (23 April–11 May 2018).

(d) Adoption of the Act on protection from abuse, in 2013;

(e) Adoption of the Act on criminal procedure, in 2013;

(f) Adoption of a national plan for combating trafficking in persons offences for the period 2017 to 2020;

(g) Adoption of Cabinet Decision No. 308 on Saudi Vision 2030, in 2016.

C. Concerns and recommendations

Reservations to the Convention

5. The Committee notes with concern that the State party continues to maintain its broad reservation with respect to implementing the provisions of the Convention provided they do not conflict with sharia, as well as its reservation to article 22 of the Convention, which may affect the full implementation of the Convention in the State party (art. 2).

6. **The Committee invites the State party to re-examine and consider withdrawing its broad reservation to the Convention in order to ensure the full implementation of the Convention in the State party.**

Statistical data

7. While welcoming information on the upcoming census to be conducted in 2020, the Committee is concerned about the current lack of detailed statistical data on the ethnic composition of the population, including non-citizens, and on the enjoyment of economic, social and cultural rights by ethnic groups and by non-citizens (art. 1).

8. **Recalling paragraphs 10 to 12 of its guidelines for reporting under the Convention (CERD/C/2007/1), the Committee recommends that the State party provide in its next periodic report: (a) statistical data on the demographic composition of the population, including non-citizens, on the basis of self-identification of ethnic groups, disaggregated in line with article 1 (1) of the Convention; and (b) detailed statistical data on the enjoyment of economic, social and cultural rights, disaggregated by ethnic group and by citizen/non-citizen status, to provide the Committee with an empirical basis for evaluating the equal enjoyment of rights under the Convention.**

National human rights commission

9. The Committee takes note of the amendments adopted in 2016 to grant the national human rights commission more independence, but regrets that the commission is not yet in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

10. **The Committee recommends that the State party take the measures necessary to bring the national human rights commission into line with the Paris Principles and that it provide the Commission with sufficient human and financial resources to effectively and independently discharge its mandate, and encourages the State party to submit an application for the commission to be reviewed for accreditation by the Global Alliance of National Human Rights Institutions.**

Prohibition of racial discrimination

11. The Committee notes the information that article 8 of the Basic Law of Governance guarantees justice and equality, and that the Convention is part of national law, having the same force as ordinary laws. However, the Committee is concerned that the lack of specific domestic legislation prohibiting direct and indirect racial discrimination on the grounds referred to in article 1 may be impeding the implementation of the rights set out in the Convention. The Committee is also concerned at the lack of information on measures taken to bring existing laws into line with the Convention (art. 1).

12. **Reiterating its previous concluding observations (see CERD/C/62/CO/8, para. 10), the Committee recommends that the State party enact comprehensive domestic**

legislation prohibiting direct and indirect racial discrimination, in line with the Convention, including all prohibited grounds of discrimination as specified in article 1. The Committee also recommends that the State party ensure that existing domestic legislation is fully in line with the Convention.

Racist hate speech and hate crimes

13. The Committee regrets the lack of comprehensive information on the implementation and impact of legal provisions prohibiting hate crimes and hate speech (art. 4).

14. **The Committee, recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, urges the State party to ensure that its legislation prohibiting hate speech is fully in line with article 4 of the Convention. The Committee recommends that, in its next periodic report, the State party provide detailed information, including with respect to court decisions, on the implementation and impact of domestic legislation on hate crimes and hate speech.**

Complaints of racial discrimination

15. The Committee regrets the lack of information on whether the Convention can be directly invoked in national courts and of examples where the Convention has served as the legal basis for court decisions. The Committee is further concerned at the lack of comprehensive data and information on complaints of racial discrimination, and reminds the State party that a low number of complaints does not signify the absence of racial discrimination in the State party, but may, rather, signify that barriers exist with regard to invoking the rights under the Convention before the domestic courts, including lack of public awareness of those rights and of the methods available for seeking judicial remedies (arts. 6–7).

16. **The Committee recommends that the State party:**

(a) **Provide clarification in its next periodic report on whether the Convention can be invoked in national courts, including examples of cases. It also recommends that the State party provide statistical data on the number and types of complaints of racial discrimination and on the number of prosecutions and convictions of perpetrators, disaggregated by the age, gender and ethnic origin of the victims, and information on compensation granted to victims;**

(b) **Provide training programmes for law enforcement officials, prosecutors, and judges on the identification and registration of incidents of racial discrimination;**

(c) **Undertake public education campaigns on the rights covered under the Convention and on how to file complaints of racial discrimination.**

Migrant workers

17. The Committee notes that, under Cabinet Decision No. 166 of 9 October 2000, the term *kafil* has been replaced with the term for "employer". However, it remains concerned that the sponsorship system continues to persist in practice, limiting the ability of an employee to switch or terminate an employment relationship and allowing for forced labour and other abusive practices, including exploitative working conditions, non-payment of wages, confiscation of passports and restrictions on employees' freedom of movement. The Committee is also concerned that migrants may be limited by the law in their right of association and assembly. It is further concerned by the high rate of migrants facing arbitrary detention, and the disproportionally high representation of migrants in the prison population and among those sentenced to death (art. 5).

18. **The Committee recommends that the State party:**

(a) **End the sponsorship system in practice and ensure that the employment of migrant workers be regulated by labour law and that the issuance of visas and residency permits be managed through the competent ministry;**

(b) **Ensure that all existing provisions to protect migrant workers from abuse and exploitation are enforced effectively;**

(c) **Ensure the right of migrants to freedom of association and assembly;**

(d) **Ensure that inspections are conducted by qualified officials in an effective manner to identify and end abusive labour practices;**

(e) **Ensure full access to complaint mechanisms and appropriate remedies;**

(f) **Conduct a study on the root causes of the overrepresentation of migrant workers in the criminal justice system with a view to addressing those causes, in the light of general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system;**

(g) **Consider abolishing the death penalty;**

(h) **Include in its next periodic report detailed information regarding the status of the abolition of the de facto sponsorship system and the implementation and impact of protective measures for migrant workers.**

Domestic workers

19. The Committee notes the steps that have been taken to improve the situation of domestic workers, including regulations concerning their relationship with employers, the establishment of a hotline to provide information and advice on the rights of domestic workers in eight languages, and workshops on their rights. However, the Committee remains concerned that domestic workers, two thirds of whom are migrant women, do not enjoy the same labour protections as other workers, and continue to face abusive working practices such as long working hours, non-payment of wages, retention of passports and physical and sexual abuse (art. 5).

20. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party:**

(a) **Ensure that the employment of foreign domestic workers, as all migrant workers, are regulated by labour laws and that all existing provisions to protect foreign domestic workers from abuse and exploitation are enforced effectively;**

(b) **Ensure that all victims of abusive and exploitative labour practices have access to complaint mechanisms, judicial recourse and shelters;**

(c) **Ratify the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization;**

(d) **Provide in its next periodic report detailed information on the implementation and impact of laws and policies to protect foreign domestic workers from exploitative labour practices, and information and data on complaints filed and their outcomes, including cases where domestic workers were able to switch employers.**

Access to justice for migrant workers

21. While noting with interest data provided during the dialogue on the number of complaints submitted by workers to the labour reconciliation commissions, as well as information on the establishment of a complaint mechanism by the ministry responsible for labour, the Committee regrets the lack of detailed information on those complaints and their outcomes. It is further concerned that foreign workers may face barriers in access to justice, such as a lack of empowerment to submit complaints and a fear of deportation or retaliatory measures, and that perpetrators of violations remain unpunished (arts. 5–6).

22. **Recalling its general recommendation No. 31, the Committee recommends that the State party:**

(a) **Eliminate all barriers in access to justice by ensuring that all foreign workers have access to independent and effective complaint mechanisms, without fear of acts of reprisal;**

(b) **Conduct awareness-raising activities regarding the respective rights and duties of workers and employers;**

(c) **Enforce existing protective policies and legislation for migrant workers and ensure that all reported cases of abuse against migrant workers are investigated and prosecuted and that perpetrators are sanctioned effectively;**

(d) **Provide information on the number and types of complaints, disaggregated by sex and ethnicity, lodged by foreign workers, on the number of investigations, prosecutions and convictions, and on penalties imposed and remedies provided to victims.**

Freedom of religion

23. The Committee is concerned that ethno-religious minorities face obstacles in freely practicing their right to freedom of religion or belief, including the prohibition on constructing religious places of worship or conducting public worship. It is also concerned that certain ethno-religious minorities face discrimination in education, employment and the legal system (art. 5).

24. **The Committee recommends that the State party take all measures necessary to ensure the rights of ethno-religious minorities, including their right to freedom of thought, conscience and religion, without any discrimination on the basis of race, colour, descent or national or ethnic origin, as specified in article 5 of the Convention. It also recommends that the State party eliminate all barriers faced by ethno-religious minorities in education, including by removing from textbooks derogatory comments on other religions, as well as in employment and in the legal system.**

Situation of ethnic minorities

25. The Committee is concerned by reports that persons of Asian and African descent face discrimination in access to housing, education, health care and employment, as well as societal racism (art. 5).

26. **The Committee recommends that the State party eliminate barriers and ensure equal access to housing, education, health care and employment for persons of Asian and African descent, without discrimination. It also recommends that the State party continue its training efforts to end societal racism.**

Situation of minority women

27. The Committee notes with concern that women from minority groups face multiple forms of discrimination on the basis of both ethnic origin and gender, including with regard to difficulty in accessing employment, education, health care and justice (arts. 2 and 5).

28. **Recalling its general recommendation No. 25, the Committee recommends that the State party eliminate all barriers faced by minority women in access to employment, education, health care and justice. To this end, it recommends that the State party incorporate a minority-women perspective in all gender-related policies and strategies.**

Nationality rights

29. While noting that Cabinet Decision No. 406 of 12 November 2012 allows some benefits for foreign-national spouses of Saudi women and for children of such unions, the Committee regrets that under the Act on nationality, citizenship is still not granted to such children. The Committee is also concerned that a foreign national married to a Saudi

woman cannot obtain Saudi nationality in the same manner as a foreign woman married to a Saudi man (arts. 2 and 5).

30. **In the light of its general recommendation No. 30 (2004) on discrimination against non-citizens, especially paragraph 16 on reducing statelessness, including among children, the Committee recommends that the State party bring its legislation into line with the Convention by amending its Act on nationality to eliminate provisions that discriminate against foreign-national spouses of Saudi women and children of Saudi women married to foreign nationals and add provisions allowing Saudi women to transmit their nationality to their foreign-national spouses and their children from birth, without discrimination.**

Special measures

31. The Committee is concerned about the situation of non-Saudis who are not migrant workers and who are living in poverty, in particular with regard to their inability to receive social benefits (art. 5).

32. **The Committee recommends that the State party take effective measures, including special measures, in accordance with general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, to improve the situation of marginalized groups living in poverty, such as non-Saudis who are not migrant workers.**

Refugees and asylum seekers

33. While welcoming information from the State party that refugees are treated as guests in the country, the Committee is concerned that the State party has not ratified the Convention relating to the Status of Refugees (art. 5).

34. **The Committee recommends that the State party ratify the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees.**

Trafficking in persons

35. The Committee, while noting efforts by the State party to prevent trafficking in persons and prosecute perpetrators, remains concerned that the State party continues to be a destination country for persons trafficked for forced labour and, in some cases, forced prostitution (art. 5).

36. **The Committee recommends that the State party continue to step up its efforts to eliminate trafficking in persons, including through the enforcement of laws and strategies to ensure that all cases of trafficking are investigated, that perpetrators are prosecuted and that appropriate penalties are imposed on perpetrators. The Committee also recommends that the State party increase assistance, and provide adequate remedies, for victims.**

Training courses on racial discrimination

37. The Committee notes with appreciation information on teaching tolerance and cross-cultural education in schools and on training courses held for several thousand participants on tolerance, peace and coexistence. It is concerned at the lack of updated detailed information on training courses conducted specifically on racial discrimination and the rights enshrined in the Convention for law enforcement officials, judges, lawyers and representatives of State bodies, local government entities and relevant associations, and on the impact of such training programmes (art. 7).

38. **The Committee recommends that the State party continue its education efforts and training courses and conduct specific training courses for law enforcement officials, judges, lawyers and State officials on the rights enshrined in the Convention, including specialized training courses on the prevention of racial discrimination. It requests that the State party provide in its next periodic report updated, detailed information on such training courses and their impact on efforts to eliminate racial discrimination in the State party.**

D. Other recommendations

Ratification of other instruments

39. **Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Follow-up to the Durban Declaration and Programme of Action

40. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009, and that it report to the Committee accordingly.**

International Decade for People of African Descent

41. **In the light of General Assembly resolution 68/237, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

42. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Declaration under article 14 of the Convention

43. **The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.**

Common core document

44. **The Committee encourages the State party to submit a common core document, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.**

Follow-up to the present concluding observations

45. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the**

adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 20 (a) and (b) and 24 above.

Paragraphs of particular importance

46. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 10, 16, 24, 28 and 30 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Dissemination of information

47. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.**

Preparation of the next periodic report

48. **The Committee recommends that the State party submit its combined tenth and eleventh periodic reports, as a single document, by 22 October 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**